

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

RALPH GULLY

Plaintiff,

v.

BAHLBI TESFAY KAHSAY and TLM
TRANSPORT, LLC

Defendants.

CIVIL ACTION FILE NO.:

ANSWER AND DEFENSES / SPECIAL APPEARANCE OF DEFENDANTS

Defendant TLM Transport, LLC (“TLM”), and by special appearance Defendant Bahlbi Tesfay Kahsay (“Kahsay”) (collectively, “Defendants”), by and through counsel, file this Answer and Defenses to Plaintiff’s Complaint, showing the Court as follows:

PRELIMINARY STATEMENT

The discovery process, including depositions of parties and witnesses, has not occurred, and defendants reserve the right to amend these responses hereto and add or delete affirmative defenses based upon facts to be determined in the discovery process.

FIRST DEFENSE

Defendant Kahsay shows that he has not been served with process at this time

in his personal capacity, and asserts all applicable defenses as to process, service of process, and statute of limitations, placing Plaintiff upon notice of a problem with service hereby.

SECOND DEFENSE

Pending further investigation and discovery, Defendants reserve the right to assert all affirmative defenses available under the Federal Rules of Civil Procedure.

THIRD DEFENSE

Pending further investigation and discovery, the accident giving rise to Plaintiff's Complaint may have been caused by the acts or omissions of persons or entities other than these Defendants and Defendants assert this defense to ensure its preservation.

FOURTH DEFENSE

Plaintiff's Complaint fails to plead special damages with the particularity required.

FIFTH DEFENSE

Pending further investigation and discovery, these Defendants show that no act or omission on its part was the proximate cause of the injuries and damages alleged by Plaintiff.

SIXTH DEFENSE

Pending further investigation and discovery, Defendants assert the defenses of contributory/comparative negligence, assumption of the risk, failure to avoid consequences, and failure to exercise ordinary care. Further, Defendants reserve the right to assert all affirmative defenses available under the Federal Rules of Civil Procedure.

SEVENTH DEFENSE

For a Seventh Defense, Defendants answer the numbered paragraphs of the Complaint as follows:

1.

Defendants lack information and knowledge necessary to form a reasonable belief as to the truth of the remaining allegations set forth in Paragraph 1 and place Plaintiff upon strict proof of same.

2.

It is admitted that Defendant Kahsay is a Texas resident and may be served with process in accordance with Georgia law.

3.

It is admitted that Defendant TLM is a Texas corporation and may be served with process in accordance with Georgia law. It is admitted that Defendant TLM is

subject to the jurisdiction of this Court. The remaining allegations of Paragraph 3 of Plaintiff's Complaint are denied.

4.

Admitted.

5.

Denied.

6.

Admitted as to Defendant TLM. Denied as to Defendant Kahsay.

7.

Defendants lack information and knowledge necessary to form a reasonable belief as to the truth of the remaining allegations set forth in Paragraph 7 and place Plaintiff upon strict proof of same.

8.

It is admitted that the vehicle driven by Defendant Kahsay came into contact with Plaintiff's vehicle. Defendants lack information and knowledge necessary to form a reasonable belief as to the truth of the remaining allegations set forth in Paragraph 8 and, therefore, such allegations are denied.

9.

It is admitted that Defendant Kahsay was acting in the course and scope of

employment with TLM at the time of the subject incident.

10.

Denied.

11.

Denied.

12.

Denied.

13.

Denied.

14.

Denied.

15.

Denied.

16.

It is admitted that Defendant Kahsay was acting in the course and scope of employment with TLM at the time of the subject incident.

17.

It is admitted that Defendant Kahsay was acting in the course and scope of employment with TLM at the time of the subject incident. The remaining allegations

of Paragraph 17 are denied.

18.

Denied.

19.

Denied.

20.

Denied.

21.

Denied.

22.

Denied.

23.

Defendants lack information and knowledge necessary to form a reasonable belief as to the truth of the remaining allegations set forth in Paragraph 23 and place Plaintiff upon strict proof of same.

24.

Defendants lack information and knowledge necessary to form a reasonable belief as to the truth of the remaining allegations set forth in Paragraph 24 and place Plaintiff upon strict proof of same.

25.

Defendants lack information and knowledge necessary to form a reasonable belief as to the truth of the remaining allegations set forth in Paragraph 25 and place Plaintiff upon strict proof of same.

EIGHTH DEFENSE

All allegations in the Complaint not specifically admitted or denied hereinabove are now generally denied.

WHEREFORE, having responded to the Complaint, Defendants pray the Court as follows:

- (1) That Plaintiff's Complaint be dismissed with prejudice and that Plaintiff have and recover nothing by way of the Complaint against Defendants;
- (2) That all issues of fact be tried by a jury of twelve (12);
- (3) For such and further relief as the Court deems just and proper.

Respectfully submitted, this 13th day of February, 2023.

McMICKLE, KUREY & BRANCH, LLP

/s/ David C. Wright

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CERTIFICATE OF SERVICE

This is to certify that on this date I have electronically filed the foregoing
ANSWER AND DEFENSES / SPECIAL APPEARANCE OF DEFENDANTS
with the Clerk of Court using the CM/ECF system which will automatically send
email notification of such filing to the following attorneys of record:

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This 13th day of February, 2023.

/s/ David C. Wright
DAVID C. WRIGHT
For the Firm